

REMARKS/ARGUMENTS

This Amendment is in response to the Office Action mailed September 10, 2007.

In the Office Action, the Examiner rejected claims 1, 7-12, 18-23, and 29-32 under 35 U.S.C. § 102 and U.S.C. § 103.

Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Rejection Under 35 U.S.C. § 102

Claims 1, 7-12, 18-23, and 29-32 stand rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent No. 7,020,893 issued to Connelly et al. (hereinafter Conelly).

Applicant respectfully traverses this rejection because, *inter alia*, Conelly does not constitute prior art. Applicant submits herewith a Declaration under 37 C.F.R. § 1.131 wherein the inventor declares that the claimed invention was conceived prior to June 15, 2001, the effective filing date of Conelly. A copy of the Intel Corp. Invention Disclosure pre-dating the June 15, 2001 filing date is also offered into evidence as Exhibit A in conjunction with the Declaration.

In the alternative, Applicant respectfully submits that Conelly does not anticipate Applicant's independent claims 1, 12, and 23.

MPEP § 2131 provides:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... "The *identical invention* must be shown in as complete detail as contained in the ... claim." (Emphasis added). *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

Contrary to the Examiner's assertion Applicant can find absolutely no description of Applicant's claim limitation related to: ...displaying the selected best currently broadcasted or stored data file automatically on a personalized channel on a display device.

In fact, Applicant cannot find any description in Conelly of the use of a personalized channel. If the Examiner wishes to maintain this rejection, Applicant respectfully requests that Examiner particularly point to the description of the use of a personalized channel in Conelly.

Based upon the above, Applicant respectfully submits that Conelly does not constitute prior art, and even if it did, Conelly does not describe the limitations of Applicant's independent claims 1, 12, and 23 and cannot anticipate these claims. Accordingly, independent claims 1, 12, and 23, and the claims that depend therefrom, should be allowable.

Rejection Under 35 U.S.C. § 103

Claims 1, 7-12, 18-23, and 29-32 stand rejected under 35 U.S.C. § 103(a) as being allegedly obvious over U.S. Publication No. 2003/0093792 to Labeeb et al. (hereinafter Labeeb).

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *MPEP §2143, p. 2100-126 to 2100-130 (8th Ed., Rev. 5, August 2006, emphasis added)*.

Applicant respectfully submits Labeeb does not teach or suggest all of Applicant's claim limitations.

In the previous Office Action March 3, 2007, the Examiner stated that: "Labeeb does not explicitly disclose the content rating in personal reference database 116 is stored as a table..." Thus, the Examiner made an admission that Labeeb does not disclose a content rating table.

In fact, in the previous Office Action the Examiner combined Labeeb with the Barret patent to allegedly reach Applicant's content rating table claim limitations.

Labeeb still does not teach or suggest a content rating table. Further, Labeeb still does not teach or suggest rating previously broadcasted data files and currently broadcasted data files

in response to the content rating table...and... displaying the selected best currently broadcasted or stored data file automatically on a personalized channel on a display device.

The Examiner cites numerous disparate paragraphs of Labeeb allegedly disclosing user preferences, user profiles, liking values, traitness values, accuracy values, confidence values, etc.

The Examiner then asserts, even though Labeeb does not describe or suggest *a content rating table*, that it would have been obvious to modify Labeeb to have *a content rating table* that includes at least a rating value and a rating type for broadcasted data files, wherein the rating value is the combination of a relevance value and a believability factor... The Examiner cites paragraphs 0223 and 0363-0368 for this proposition.

Paragraph 0223 states:

[0223] The current invention also provides a mechanism to predict profile that is active at any given time. FIG. 40 illustrates the method for identifying the profile currently active on the device. Current user actions are monitored and user action records are created. The most recent user action records are used to create a usage pattern record. The usage pattern record is mapped to a point in the cluster dimension. Using the Information about clusters representing multiple profiles, the probability of each of the clusters being active given the usage pattern is computed. This is computed by using Bayesian Probability theory that can be used to compute the posterior probability using the prior probability and mixture weights. The probability of a cluster being active is computed using the probability of the usage-pattern record given the profile ($P(\text{usage_pattern} \mid \text{profile})$), the probability of the profile being active and the probability of the usage record occurring. The mathematical representation for the Bayesian Probability theory in the current context is given below...

Paragraphs 0363-0368 state:

[0363] Since the combination of monitored variables which we are interested in may occur only very rarely, the observed value of $P(w/\text{set of parameters})$ may not be very reliable. In this case we have to assign a weight to this monitored variable which is proportional to the confidence we have for the value of $P(w/\text{set of parameters})$... [0364] If the parameters we are monitoring are a, b, c, d and e, and if we need to compute $P(w/a,b,c,d,e)$ we use the following method to approximate $P(w/a,b,c,d,e)$... [0365] 1. Check if $P(w/a,b,c,d,e)$ is monitored. If it is, find out the confidence we have for the monitored value. If the confidence is more than a predefined threshold, use this value as the $P(w/a,b,c,d,e)$... [0366] 2. If the confidence is not below the threshold, use the confidence value to weight $P(w/a,b,c,d,e)$... [0367] 3. Deduce different ways to compute $P(w/a,b,c,d,e)$ from the monitored combinations of parameters like $P(w/a)$, $P(w/c,d,e)$, $P(w/a,b,c)$ etc. This is done by finding $P(w/\text{set of parameters})$ with the most number of parameters of interest (e.g. choose $P(w/a,b,c,d)$ from the list of possible choices of $P(w/a)$,

$P(w/a,b)$, $P(w/a,b,c)$ and $P(w/a,b,c,d)$ and finding the complementary $P(w/X)$ which contains the rest of the parameters (e.g. complementary value for $P(w/a,b,c,d)$ will be $P(w/e)$ if we are trying to compute $P(w/a,b,c,d,e)$)...[0368] 4. If the pair of values chosen to approximate $P(w/a,b,c,d,e)$ are $P(w/a,b)$ and $P(c,d,e)$ then choose the bigger of these values as the approximation for $P(w/a,b,c,d,e)$. Weight this with a confidence value which is a function of the number of records we have for $P(w/a,b)$ and $P(c,d,e)$.

Applicant respectfully submits that the Examiner has misconstrued the above-described teachings of Labeeb and they clearly do not teach or suggest *a content rating table* that includes at least a rating value and a rating type for broadcasted data files, wherein the rating value is the combination of a relevance value and a believability factor...

Further, as to Applicant's claim limitations related to:...the *relevance value* corresponding to a likelihood that a user will want to watch the broadcasted data file based on the descriptions of the meta-data and the *believability factor* is a weighting factor corresponding to the accuracy of past relevance value determinations, and the rating type indicates whether the rating value was generated explicitly based upon prior explicit input from the user or implicitly generated without prior explicit input from the user...the Examiner states that these claim limitations would merely be obvious and does not provide any specific citations to Labeeb for supporting this obviousness determination.

This is insufficient as a matter of law. As set forth by the Federal Circuit reliance merely on "common knowledge" and "common sense" does not fulfill the PTO's obligation to cite references to support an obviousness conclusion, as the PTO must document its reasons on the record to allow accountability and effective appellate review. In re Lee, 61 USPQ2d 1430, 1435 (Fed. Cir. 2002). To rely on an express or an implicit showing (e.g. a description, teaching, or suggestion) particular findings related thereto must be found...Broad conclusory statements standing alone are not evidence. (Id.).

In fact, there is no teaching or suggestion in Labeeb of Applicant's claim limitations that disclose a unique and non-obviousness use of *content rating table*. In particular nowhere does Labeeb teach or suggest: *a content rating table* that includes at least a rating value and a rating type for broadcasted data files, wherein the rating value is the combination of a relevance value

and a believability factor ...the *relevance value* corresponding to a likelihood that a user will want to watch the broadcasted data file based on the descriptions of the meta-data and the *believability factor* is a weighting factor corresponding to the accuracy of past relevance value determinations, and the rating type indicates whether the rating value was generated explicitly based upon prior explicit input from the user or implicitly generated without prior explicit input from the user... rating previously broadcasted data files and currently broadcasted data files *in response to a content rating table*...and displaying the *selected best currently broadcasted or stored data file automatically on a personalized channel on a display device*.

As above, because Labeeb does not teach or suggest these claim limitations, an obviousness rejection cannot be properly maintained. Accordingly, Applicant respectfully submits that independent claims 1, 12, and 23, and the claims that depend therefrom, are allowable and respectfully requests that the Examiner pass these claims to issuance.

Conclusion


In view of the remarks made above, it is respectfully submitted that pending claims 1, 7-12, 18-23, and 29-32 are allowable over the prior art of record. Thus, Applicant respectfully submits that all the pending claims are in condition for allowance, and such action is earnestly solicited at the earliest possible date. The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application. To the extent necessary, a petition for an extension of time under 37 C.F.R. is hereby made. Please charge any shortage in fees in connection with the filing of this paper, including extension of time fees, to Deposit Account 02-2666 and please credit any excess fees to such account.

Respectfully submitted,

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Dated: 12/10/2007

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Attachments

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